IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 3465 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
FEBRUARY 22, 2007.

Heard Shri Wankhede, learned counsel for the petitioner and Smt. Joshi, learned counsel for the respondent.

The Labour Court has rejected the application under Section 33-C(2) of Industrial Disputes Act, 1947, filed by the petitioner, observing that the petitioner has failed to prove existing right.

Shri Wankhede, learned counsel points out that appreciation of evidence by the Labour Court in paras 15,16 and 17 is perverse. He has invited attention to cross examination of respondent in this respect. He has placed heavy reliance upon Annexure A document dated 1.4.1994 to show his entitlement.

Smt. Joshi, learned counsel on the other hand contends that the petitioner could not prove that his salary was Rs.3,500/- per month. She further contends that Annexure A document dated

1.4.1994 is not at all proved before the Labour Court. She invites attention to cross examination of the petitioner.

I have perused the documents and also the evidence. From the cross examination of the petitioner it is apparent that the document dated 1.4.1994 was shown to him and he accepted his signature upon that document only. He, however, stated that he was not aware of contents thereof. In view of this position, the signature on said document has only been marked as Exhibit. It is apparent that the Court has rightly concluded that contents of document are not proved. The Court below has not relied upon said document.

I find that the Court below is justified in observing that the petitioner has failed to show existing right. It is, therefore, clear that limited jurisdiction under Section 33C(2) of the Act could not have been invoked by the petitioner. The petitioner is free to file an application for appropriate declaration and for seeking relief. I do not find any jurisdictional error or perversity in the approach of the Court below. Writ Petition is dismissed. No order as to costs.

JUDGE

*GS.